

FINANCIAL SERVICES FIRM

SMS Investigations into Google's general search services: Proposed Conduct Requirements

COMMENTS

1. We welcome the opportunity to input on the CMA's proposed conduct requirements in relation to Google Search¹, with a specific focus on the proposed Fair Ranking Conduct Requirements given this is the area on which we consider we can add the most value to the CMA.
2. We are supportive of proportionate regulatory action that seeks to deliver good consumer outcomes and effective competition through ensuring Google customers receive fair, objective and non-discriminatory treatment on the provision of search services.
3. While recognising the proposed conduct requirements are only a first step in an ongoing regulatory process (and we very much look forward to the timeous implementation of the wider remedial roadmap), we consider that the CMA's proposals are broadly fit for purpose and proportionate. The objectives pursued are aligned with Google's own mission to "organize the world's information and make it universally accessible and useful", and the measures largely appear to formalise and enhance existing policies (an approach that is appropriate given Google's market power) rather than fundamentally altering how Google conducts its business.
4. We are also supportive of the CMA's proposed approach to implementation and compliance, which aligns with the type of measures many firms will be accustomed to via industry specific regulation. We are also encouraged by the CMA's stated aim of engaging in a regulatory dialogue with Google on a six-monthly basis. Time certainly should be taken on a continual basis to ensure that compliance placed on Google adds actual value to both Google and its customers in managing the risks identified and does not descend into an overly prescriptive, tick-box exercise frozen-in-time.
5. Taking the CMA's specific questions in turn:

General

1. Do you agree with the proposed scope of the Fair Ranking CR?

The CMA's proposals apply only to organic search and not paid-for content. While we acknowledge the functional distinction that can be made between the two, we encourage the CMA to consider mechanisms to ensure that Google also provides paid-for services in a fair manner predicated on fair ranking and fair dealing principles established and applied by the CMA.

This reflects our growing, credible concern over the way in which Google increasingly approaches search advertising and how this provides us with potentially wasted, unnecessary costs and presents consumers/users with irrelevant results (for example, the greater use of Broad Match keywords and the expanded definition of Close Variants). We are also concerned about our growing dependence on Google's currently opaque decision-making and auction practices and the lack of data being made available to us in, for example, Search Query Reports, without a compelling, objective justification. Again, in addition to wasted and

¹ [Google's general search services: proposed conduct requirements | CMA Connect](#)

unnecessary costs, this hampers the efficacy of our advertising, resulting in consequent detriment to the consumer/user.

Connected to this, we would again urge the CMA to consider as Category 2, rather than as Category 3, measures on ad load, auctions and ad prices. We recognise this is a potentially complex area. However, in the absence of effective competition—which we believe (unfortunately) the CMA’s remedies are unlikely to deliver in the short to medium term—there is a credible risk that advertisers will pay overly-inflated prices.

More broadly, we agree with the non-discrimination and objectivity elements of the CMA’s proposals. However, as the proposals appear to recognise, we note that any requirement on Google to provide transparency and notice of material changes needs to accommodate the risk that certain SEOs use the information gained to seek to manipulate search rankings.

2. Do you have any views or evidence on the benefits or costs of the Fair Ranking CR?

We are broadly supportive of the compliance and implementation requirements that Google will need to meet and these do not strike us as driving material costs and/or unnecessary complexity. As such, we do not consider that the Fair Ranking CR should result in significant additional costs. In any event, it would be wholly inappropriate for Google to pass on compliance costs to customers through increased prices and would ask that the CMA monitors and ultimately prevents this risk.

Non-discriminatory and objective

3. Do you have any views on the non-discrimination part of the Fair Ranking CR? In particular:

- (a) Are the requirements sufficiently comprehensive?
- (b) Are there other factors which should be included in paragraph 4?

We support a legal requirement on Google to rank search results based on objective and non-discriminatory criteria and are broadly supportive of the CMA’s proposed approach. As mentioned above, this chimes with Google’s own mission statement and should work to ensure it continues to make information easier to understand and more accessible, competing (vis-à-vis its rivals) on the merits rather than unfairly exploiting its market position.

Transparency

4. Do you have views on the transparency part of the Fair Ranking CR? In particular:
- (a) What should the concept of a ‘material change’ cover? Eg ranking policy changes, and/or changes to ranking systems (eg core updates).
 - (b) What are the advantages or risks of including your suggested changes?

The most impactful changes Google makes are changes to the structure of the search engine ranking page (SERP), such as the introduction of features like AI Overviews, large modules, less traditional blue links, and the criteria for what triggers these features.

More information from Google that provides advance notice of these features would allow webmasters to properly forecast and manage change, rather than struggling to adapt to changes after the event, which creates inefficiencies and detrimental cost implications.

Non-distortion and complaints

5. Do you have views on the non-distortion and complaints part of the Fair Ranking CR? In particular:
- (a) What are your views on our proposed complaints-led process for addressing concerns about distortions, including advantages and risks?
 - (b) What factors should inform whether the materiality threshold has been reached.

Overall, we consider that the CMA's proposal provides an effective way to feed back to Google and that analysis of the data en masse (by AI) could lead to interesting developments in search.

Of course, there remains the risk that certain firms will abuse the complaints procedure in an attempt to compensate for their lower quality website/products/services, but we would hope this could be identified and managed through the CMA's regulatory engagement with Google.

In relation to the materiality threshold, this could be based on severe changes to a brand's (or multiple brands') SEO visibility and their share of search (defined as "searches for brand X divided by searches for all brands in a category").² For industry verticals, we believe this would be an effective metric for measuring whether the materiality threshold has been reached and, further, this information could be made publicly accessible in a similar format to that already provided to individual firms by Google analytics or Search Console.

6. Do you have views on our proposals for introducing a general complaints process covering manual exclusions from Google's search index?

We welcome this proposal. If Google has removed a website from their index, they should state the factors behind that removal so the webmaster has the opportunity to rectify the issue.

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² See, for instance, [EffWorks Global 2020: Share of Search as a Predictive Measure - YouTube](#)